

Serial No.: 09/871,510  
Group Art Unit: 2145  
Examiner: Adnan M. Mirza

### REMARKS

Claims 1 through 28 remain in this application. Claim 1 and 11 have been amended for grammatical reasons and to be more easily understood by a reader.

#### Claim Rejections under 35 U.S.C. 102

The Office Action rejected the claims under 35 U.S.C. 102(e) over U.S. 2002/0107973 to Lennon et al. (the "Lennon reference"). However, the Lennon reference is not prior art under 35 U.S.C. 102(e). See 35 U.S.C. 102(e) and M.P.E.P. 2136.03. M.P.E.P. 2136.03 states that, "Foreign applications filing dates that are claimed (via 35 U.S.C. 119(a)-(d), (f) or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., may not be used as 35 U.S.C. 102(e) dates for prior art purposes." In addition, the foreign priority filing date was prior to November 29, 2000, and so would only be applicable as of the US filing date after issuance even if published under PCT Article 21(2) under the prior provisions of 35 U.S.C. 102(e). Since its foreign priority date is not available for 102(e) purposes, the Lennon reference has priority only to the U.S. filing date of November 13, 2001. Thus, it is not prior art to this application with a filing date of May 31, 2001.


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**CONCLUSION**

For the above reasons, the Application is in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact Jessica W. Smith at (972) 477-9109.

Respectfully submitted,

ALCATEL

  
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